

COUNTY OF YORK

MEMORANDUM

DATE: June 25, 2003 (PC Mtg. 7/9/03)

TO: York County Planning Commission

FROM: Timothy C. Cross, AICP, Principal Planner

SUBJECT: Application Nos. ZM-75-03 and UP-620-03, City of Williamsburg and Heritage Humane Society

ISSUE

Application No. ZM-75-03 seeks to amend the York County Zoning Map by reclassifying approximately 4.2 acres of land located along Waller Mill Road (Route 713) approximately 0.76-mile northeast of its intersection with Mooretown Road (Route 603) from RC (Resource Conservation) to RR (Rural Residential). The property is further identified as Assessor's Parcel No. 6-4C and a portion of Assessor's Parcel No. 6-4.

Application No. UP-620-03, which is contingent on the approval of Application No. ZM-75-03, is a request, pursuant to Section 24.1-115(d)(3) of the York County Zoning Ordinance, to expand the Heritage Humane Society animal shelter located at 430 Waller Mill Road approximately 0.76-mile northeast of its intersection with Mooretown Road (Route 603) – which will become a legally conforming special use if the rezoning application is approved – by constructing a 14,000-square foot building to replace the existing 2,720-square foot Main Building, which will be demolished. The 3,072-square foot Spayth Building will remain. Under this proposal, the acreage of the animal shelter site would increase from 1.12 to 4.2 acres

DESCRIPTION

- Property Owner: City of Williamsburg
- Location: 430 Waller Mill Road
- Area: Approximately 4.2 acres
- Frontage: Approximately 540 feet on Waller Mill Road (Route 713)
- Utilities: Public water and sewer
- Topography: Relatively flat with slight slopes to the rear
- 2015 Land Use Map Designation: Conservation
- Zoning Classification: RC – Resource Conservation

- Existing Development: Animal shelter consisting of a 2,720-square foot building and a 3,072-square foot two-story building
- Surrounding Development:
 - North: Watershed property owned by the City of Williamsburg
 - East: Watershed property owned by the City of Williamsburg
 - South: Single-family detached home (across Waller Mill Road)
 - West: Watershed property owned by the City of Williamsburg
- Proposed Development: Expansion of an existing animal shelter through the construction of a 14,000-square foot building to replace an existing 2,720-square foot building

BACKGROUND

The Heritage Humane Society operates an animal shelter on Waller Mill Road that serves residents of the City of Williamsburg, James City County, and upper York County. The shelter is a nonconforming use by virtue of the fact that the property is zoned RC (Resource Conservation) and animal shelters are not a permitted use in the RC zoning district. Nonconforming uses can be enlarged upon approval of a Special Exception by the Board of Supervisors but not by more than 50%. The Humane Society wishes to expand its facility by more than 50% (approximately 95%); therefore, it is requesting to rezone the property to RR (Rural Residential), where animal shelters are permitted with a Special Use Permit. If the rezoning is approved, the shelter will become a legally conforming special use and can be expanded by any percentage deemed appropriate by the Board. Any expansion greater than 25% is considered a major expansion that is processed in the same manner as an original use permit application, including public hearings and Planning Commission review.

CONSIDERATIONS/CONCLUSIONS

1. The animal shelter is located on a 1.12-acre parcel on Waller Mill Road that the Heritage Humane Society leases from the City of Williamsburg. Located within watershed property surrounding the Waller Mill Reservoir, the property is designated for Conservation in the Comprehensive Plan and is zoned RC (Resource Conservation), as is all the watershed property in the County. The Humane Society has entered into an agreement with the city to expand the facility and enlarge its lease area from 1.12 to 3.02 acres. This would involve a boundary line adjustment, effectively eliminating the existing parcel and creating a new larger parcel in its place. As depicted on the applicant's conceptual plan, the area to be rezoned would include not just the new 3.02-acre parcel but also a 45-foot strip on both sides and to the rear of the parcel; the total area of this strip is approximately one acre. This will allow some added flexibility in the final, detailed design and engineering stage such that the entire project, or components thereof, could potentially be shifted by up to 45 feet to the north, south, or west.

2. The need to expand the animal shelter is generated by a combination of three factors:
 - New state regulations regarding the health and humane treatment of animals in shelters will require physical improvements to the shelter.
 - Additional space is needed to accommodate projected population growth in the greater Williamsburg area, which grew by 26.9% between 1990 and 2000 (from 55,000 to 70,000) and is projected to grow an additional 52.8% (to approximately 107,000) in the next 20-25 years.¹
 - The existing Main Building, which was built in the mid-70s by volunteers with donated materials, has deteriorated to the point that, according to architectural studies that have been conducted, further renovation would not be economically feasible.
3. Development is relatively sparse on this segment of Waller Mill Road. The Colonial Williamsburg Foundation owns over 400 undeveloped acres on the south side of Waller Mill Road, while the City of Williamsburg owns over a thousand undeveloped acres on the north side. The subject property is surrounded on three sides by watershed property. One single-family detached home is located directly across the street from where the new shelter would be built, while the nearest home on the north side of Waller Mill Road is approximately 360 feet to the west.
4. The animal shelter currently consists of two buildings totaling 5,792 square feet in area. The Main Building, where the animals are housed, is a 2,720-square foot structure with 20 indoor/outdoor kennels/runs and 8 outdoor runs, two rooms for cat cages, and various ancillary facilities. The two-story Spayth Building, located to the west of the Main Building, is a 3,072-square foot structure that includes an animal intake/isolation area as well as administrative and storage space. The Heritage Humane Society proposes to demolish the Main Building and replace it with a one-story 14,000-square foot building approximately 25-30' to the east. The Spayth Building would remain. The new building would be built in two phases, the initial phase to consist of 11,000 square feet and the second phase to include an additional 3,000 square feet. The net increase in floor area will be 11,280 square feet. All animals will remain indoors except for any animals that may be held pending the outcome of a court case. Such animals must be confined in a secure facility separate from the other animals; for this purpose the Humane Society plans to construct an outdoor "court hold area," which will basically be a roofed courtyard with walls measuring 3 to 4 feet in height to prevent escape, to the rear of the new shelter. Based on past experience, instances where this facility will be needed will be extremely rare.
5. The new building will be located directly across the street from an existing home. The home is set back over 100 feet from Waller Mill Road (approximately 80 feet from the road right-of-way) and will be about 210 feet from the new shelter building. The subject property is heavily wooded, which helps to obscure direct views of the facility from the home across the street. To ensure that there will be a visual buffer between this home and the new, much larger animal shelter, staff recommends that the

¹ Hampton Roads Planning District Commission, *Hampton Roads 2000 and 2026 Socioeconomic Data by TAZ* (May 2002).

applicant be required to preserve the existing vegetation in the 20-foot landscape yard in front of the proposed building along Waller Mill Road, supplemented as necessary with additional tree plantings. This will ensure a denser, more effective visual buffer than the standard landscape yard planting ratios require. Outdoor site lighting will be limited to full cutoff fixtures that prevent spillover of light onto adjacent properties. Noise generated by the shelter is expected to decrease as a result of the expansion since the animal pens in the new facility will all be indoors.

6. The Institute of Transportation Engineers (ITE) Trip Generation manual does not provide trip generation figures for animal shelters. The shelter has a staff of 8 full-time and 4 part-time employees. There are also up to 3 volunteers at the shelter on any given day. Ultimately the applicant expects to add 6-7 full-time and 1-2 part-time employees to staff the new expanded facility (3-4 full-time and 0-1 part-time employee for Phase 1 of the expansion). Based on these and other figures submitted by the Humane Society, staff estimates that the shelter currently generates approximately 60-90 vehicle trips per weekday and up to 110 on Saturdays. This is projected to increase to a maximum of approximately 160 weekday trips and 190 on Saturdays for the new expanded shelter. This segment of Waller Mill Road, which terminates approximately one half-mile beyond the subject property, has a pavement width of approximately 22 feet and does not carry heavy volumes of traffic; development beyond the animal shelter consists of seven homes, a small church, and a water treatment plant owned by the City of Williamsburg. In staff's opinion the road can accommodate the additional traffic with no deterioration in safety or Level of Service.
7. The shelter currently has approximately fifteen (15) off-street parking spaces, but the parking lot is small and lacks sufficient traffic aisles to allow for the safe maneuvering of vehicles. The new parking lot will be a vast improvement, more than doubling the number of spaces while providing the required 24-foot traffic aisles. The Zoning Ordinance does not address parking requirements for animal shelters. What little relevant data is available comes from a 2002 PAS (Planning Advisory Service) report entitled Parking Standards² that contains parking space requirements collected from localities across the country for a range of uses. For animal shelters two parking generation figures are provided (Encinitas, California and Minneapolis, Minnesota). The proposed 32-space parking lot is fairly consistent with these standards³, at least for a 14,000-square foot shelter. However, this does not take into account the accessory Spayth Building, which could potentially increase the parking demand by 7 to 10 spaces. Because of the uncertainty regarding the true parking needs of the facility, staff recommends that the applicant be required to construct all 32 parking spaces as part of Phase 1. This will provide an opportunity to evaluate the parking demand for the new expanded facility and, if the number of spaces proves to be inadequate, staff can administratively require additional parking as a condition of site

²Michael Davidson and Fay Dolnick, eds., *Parking Standards (Planning Advisory Service Report No. 510/511)* (Chicago: American Planning Association, 2002).

³ One space per 400 square feet (Encinitas, CA) and one space per 300 square feet of gross floor area in excess of 4,000 square feet (Minneapolis, MN).

plan approval for Phase 2. A condition to this effect has been included in the approving resolution for the Commission's consideration.

8. The subject property is part of the watershed for the Waller Mill Reservoir and thus is located in the Watershed Management and Protection Area (WMP) Overlay District. Accordingly, any proposed development of the property will be subject to the provisions set forth in Section 24.1-376 of the Zoning Ordinance, which are intended to ensure protection of watersheds surrounding public water supply reservoirs. As indicated on the concept plan, a stormwater pond will be constructed to the rear of the property and the stormwater will be piped away from the reservoir and under Waller Mill Road to an outfall at Queen Creek. In addition, the developer will be required to submit an impact study addressing measures for controlling both the quality and quantity of stormwater runoff and protecting the Waller Mill Reservoir. With these requirements, together with the fact that the City of Williamsburg owns the subject property and would not likely have authorized the Humane Society to pursue the expansion if it felt its reservoir would be adversely affected, staff is confident that sufficient safeguards are in place to ensure that the reservoir will be adequately protected.
9. The proposed establishment of a single RR-zoned tract of land surrounded by RC and R20 zoning could potentially be perceived as "spot zoning" which is defined as a "rezoning of a lot or parcel of land to benefit an owner for a use incompatible with surrounding land uses and that does not further the comprehensive zoning plan."⁴ Spot zonings are generally illegal when designed solely to serve the private interests of one or more landowners but not if the legislative purpose is to further the welfare of the entire county or city as part of an overall zoning plan. In this case, staff believes there is indeed a larger public purpose served by the proposed rezoning. Animal shelters are, in fact, a public or quasi-public use; Section 3.1-796.96 of the Code of Virginia requires every county and city to maintain or contract for the establishment of a pound or shelter for the housing of seized, stray, homeless, abandoned, or unwanted animals. By maintaining such a facility, the Heritage Humane Society is performing a public service for residents of Williamsburg, James City County, and upper York County. The Humane Society has a contractual agreement with James City County's Animal Control office (which also serves the City of Williamsburg) to house animals that have completed their legally mandated stay in the James City County Animal Control Shelter and are ready and able to be adopted. (Although York County has a contractual agreement with the Peninsula SPCA for the impoundment of animals, the Board of Supervisors has for the past several years contributed financially to the Heritage Humane Society to help defray the cost of operating the shelter; in the County's adopted budget for FY04, \$7,000 has been included for this purpose.) Staff believes that expanding the shelter would not alter the existing character of the surrounding area or be inconsistent with the residential character envisioned by the Comprehensive Plan.

⁴ Harvey S. Moskowitz and Carl G. Lindbloom, *The New Illustrated Book of Development Definitions* (New Brunswick, NJ: Rutgers, The State University of New Jersey, 1993) p. 262.

10. In evaluating these applications, the Commission should recognize that there is no guarantee that the property will always be used as an animal shelter and that approval of the rezoning would open the door to other uses that currently are not permitted. These potential uses need to be considered in the event, however remote, that sometime in the future the Heritage Humane Society decides to close the shelter. Uses that would be permitted as a matter of right include single-family detached homes (up to three homes on one-acre lots, based on the amount of acreage and road frontage), private kennels, churches, wholesale plant nurseries, and government buildings. Staff does not consider any of these uses to be inherently incompatible with development in the surrounding area. In fact, most of these uses already exist in the vicinity of the shelter. These include Colonial Baptist Church, Oak Grove Baptist Church, Waller Mill Elementary School, the Historic Triangle Community Services Center, and several single-family detached homes on lots ranging in size from 0.28 to 3.90 acres (with an average lot size of 1.25 acres). The shelter itself is somewhat similar to a private kennel except that there would be much less traffic with a kennel since there would be no customers. (*Commercial* kennels, it should be noted, require a use permit in the RR district.) It should also be noted that as long as the City of Williamsburg owns the property, it will have control over any future uses established thereon.

RECOMMENDATION

With its relatively isolated location near the end of a 1.9-mile dead-end street, surrounded on three sides by over 1,000 acres of watershed property that probably will never be developed, the animal shelter has operated successfully on the subject property for many years. Paradoxically, despite the increased building size and number of animals (51 dogs and 46 cats per day, on average), the compatibility of the shelter with its surroundings may actually improve as a result of the expansion. The elimination of the outdoor pens will reduce noise, and the expansion of the parking lot will alleviate any parking deficiencies that may currently exist. Furthermore, Waller Mill Road has sufficient excess capacity to accommodate the increase in traffic, and the preservation of existing landscaping will mitigate the visual impact of the proposed 14,000-square foot building. Finally, staff does not believe that the proposed RR zoning would introduce into this area any incompatible uses that could potentially be established in the unlikely event that the animal shelter closes. For these reasons, staff recommends that the Commission forward these applications to the Board of Supervisors with a recommendation of approval through the adoption of proposed Resolution Nos. PC03-15 (rezoning) and PC03-16 (use permit).

TCC

Attachments

- Zoning Map
- Vicinity Map
- Conceptual Plan
- Narrative description (submitted by the applicant)
- Proposed Resolution No. PC03-15 (rezoning)
- Proposed Resolution No. PC03-16 (use permit)